

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

11 2150 SIGOURNEY JOSSIAH - ) Case No. 06-CV-1883-LAB (JMA)  
12 FRANCIS LEE ASSOCIATION, SUING )  
13 ON BEHALF OF THEODORE A. ) **NOTICE AND ORDER FOR EARLY  
14 PINNOCK AND ITS MEMBERS, et ) NEUTRAL EVALUATION CONFERENCE  
al., )  
15 Plaintiffs, )  
16 v. )  
17 COTTAGE LJ, INC., etc., et al. )  
18 Defendants. )  
19 \_\_\_\_\_ )**

20 **IT IS HEREBY ORDERED** that an Early Neutral Evaluation  
21 Conference will be held on January 24, 2007 at 10:00 a.m. in the  
22 chambers of the Honorable Jan M. Adler, United States Magistrate  
23 Judge, Room 1165, U.S. Courthouse, 940 Front Street, San Diego,  
24 California.

25 Pursuant to Rule 16.1(c) of the Local Rules of the United  
26 States District Court for the Southern District of California,  
27 **all named parties, all counsel, and any other person(s) whose  
28 authority is required to negotiate and enter into settlement**

1 shall appear in person at the conference, shall be prepared to  
 2 discuss the claims and defenses, and shall be legally  
 3 and factually prepared to discuss and resolve the case at the  
 4 Early Neutral Evaluation conference. The individual(s) present  
 5 at the Early Neutral Evaluation Conference with settlement  
 6 authority must have the unfettered discretion and authority on  
 7 behalf of the party to: 1) fully explore all settlement options  
 8 and to agree during the Early Neutral Evaluation Conference to  
 9 any settlement terms acceptable to the party (*G. Heileman Brewing*  
 10 *Co., Inc. v. Joseph Oat Corp.*, 871 F.2d 648, 653 (7th Cir.  
 11 1989)), 2) change the settlement position of a party during the  
 12 course of the Early Neutral Evaluation Conference (*Pitman v.*  
 13 *Brinker Int'l, Inc.*, 216 F.R.D. 481, 485-86 (D. Ariz. 2003)), and  
 14 3) negotiate a settlement without being restricted by any  
 15 predetermined level of authority (*Nick v. Morgan's Foods, Inc.*,  
 16 270 F.3d 590, 596 (8th Cir. 2001)).

17 Retained outside corporate counsel shall not appear on  
 18 behalf of a corporation as the party who has the authority to  
 19 negotiate and enter into a settlement. The failure of any  
 20 counsel, party or authorized person to appear at the Early  
 21 Neutral Evaluation Conference as required will result in the  
 22 immediate imposition of sanctions.

23 All conference discussions will be informal, off the record,  
 24 privileged, and confidential.

25 Counsel for any non-English speaking parties is responsible  
 26 for arranging for the appearance of an interpreter at the  
 27 conference.

28 Based upon the Court's familiarity with cases brought

1 pursuant to the Americans with Disabilities Act, and in the  
2 interest of promoting the just, efficient, and economical  
3 determination of this action, the Court issues the following  
4 orders:

5       1. All discovery shall be stayed in this case until after  
6 the Federal Rule of Civil Procedure 26(f) conference;

7       2. **Twenty-one (21) days** prior to the Early Neutral  
8 Evaluation Conference, Plaintiff's(s') counsel shall lodge with  
9 Magistrate Judge Adler's chambers, and serve on opposing counsel,  
10 a statement not in excess of two pages, including the following  
11 information:

12               (a) An itemized list of the specific issues on the  
13 subject premises which are the basis of the claimed violations  
14 under the Americans with Disabilities Act. A recitation of  
15 regulations, by number, will not satisfy this requirement. The  
16 claimed violations must be specifically described.

17               (b) A statement of the amount and category of damages  
18 claimed by Plaintiff(s) in this action.

19               (c) The amount claimed for attorneys' fees and costs;  
20 and

21               (d) The Plaintiff's(s') demand for settlement of the  
22 case in its entirety.

23       3. **Fourteen (14) days** prior to the Early Neutral  
24 Evaluation Conference, counsel for the parties shall meet and  
25 confer regarding settlement of:

26               (a) The premises violations alleged; and

27               (b) Damages, costs, and attorneys' fees claims.

28       4. **Seven (7) days** prior to the Early Neutral Evaluation

1 Conference, counsel shall lodge with Magistrate Judge Adler's  
2 chambers a joint statement advising the Court of the status of  
3 settlement negotiations and setting forth all issues in dispute,  
4 including property issues, Plaintiff's(s') alleged damages, and  
5 the claim for attorneys' fees and costs, along with a description  
6 of any settlement demands and/or offers exchanged.

7 5. Plaintiff's(s') counsel shall be prepared to present to  
8 the Court for *in camera* review at the Early Neutral Evaluation  
9 Conference documentation supporting the amount of attorneys' fees  
10 and costs claimed.

11 Rule 26 of the Federal Rules of Civil Procedure shall apply  
12 to this case. In the event the case does not settle at the Early  
13 Neutral Evaluation Conference, the parties shall also be prepared  
14 to discuss the following matters at the conclusion of the  
15 conference:

16 1. Any anticipated objections under Federal Rule of Civil  
17 Procedure 26(a)(1) to the initial disclosure provisions of Rule  
18 26(a)(1)(A-D);

19 2. The scheduling of the Rule 26(f) conference;

20 3. The date of initial disclosures and the date for  
21 lodging the discovery plan following the Rule 26(f) conference;  
22 and

23 4. The scheduling of a Case Management Conference pursuant  
24 to Rule 16(b).

25 Plaintiff's(s') counsel shall give notice of the Early  
26 Neutral Evaluation Conference to parties responding to the  
27 complaint after December 15, 2006.

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1 Questions regarding this case may be directed to the  
2 Magistrate Judge's law clerk at (619) 557-5585.

**IT IS SO ORDERED.**

4 || DATED: December 15, 2006

Jan M. Adler  
Jan M. Adler  
U.S. Magistrate Judge

1                   **NOTICE OF RIGHT TO CONSENT TO TRIAL**  
2                   **BEFORE A UNITED STATES MAGISTRATE JUDGE**

3                   IN ACCORDANCE WITH THE PROVISIONS OF 28 U.S.C. § 636(c), YOU  
4                   ARE HEREBY NOTIFIED THAT A U.S. MAGISTRATE JUDGE OF THIS DISTRICT  
5                   MAY, UPON THE CONSENT OF ALL PARTIES, ON FORM 1A AVAILABLE IN THE  
6                   CLERK'S OFFICE, CONDUCT ANY OR ALL PROCEEDINGS, INCLUDING A JURY  
7                   OR NON-JURY TRIAL, AND ORDER THE ENTRY OF A FINAL JUDGMENT.  
8                   COUNSEL FOR THE PLAINTIFF SHALL BE RESPONSIBLE FOR OBTAINING THE  
9                   CONSENT OF ALL PARTIES, SHOULD THEY DESIRE TO CONSENT.

10                  YOU SHOULD BE AWARE THAT YOUR DECISION TO CONSENT OR NOT TO  
11                  CONSENT IS ENTIRELY VOLUNTARY AND SHOULD BE COMMUNICATED SOLELY  
12                  TO THE CLERK OF COURT. ONLY IF ALL PARTIES CONSENT WILL THE  
13                  JUDGE OR MAGISTRATE JUDGE TO WHOM THE CASE HAS BEEN ASSIGNED BE  
14                  INFORMED OF YOUR DECISION.

15                  JUDGMENTS OF THE U.S. MAGISTRATE JUDGES ARE APPEALABLE TO  
16                  THE U.S. COURT OF APPEALS IN ACCORDANCE WITH THIS STATUTE AND THE  
17                  FEDERAL RULES OF APPELLATE PROCEDURE.

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